

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit 15

Page 1

THE SOUTH CAROLINA STATE CONFERENCE OF  
THE NAACP, AND TAIWAN SCOTT, ON BEHALF  
OF HIMSELF AND ALL OTHER SIMILARLY  
SITUATED PERSONS,

**Plaintiffs,**

vs.

THOMAS C. ALEXANDER, HENRY D. MCMASTER,  
IN HIS OFFICIAL CAPACITY AS GOVERNOR OF  
SOUTH CAROLINA; HARVEY PEELER, IN HIS  
OFFICIAL CAPACITY AS PRESIDENT OF THE  
SENATE; LUKE A. RANKIN, IN HIS OFFICIAL  
CAPACITY AS CHAIRMAN OF THE SENATE  
JUDICIARY COMMITTEE; JAMES H. LUCAS, IN  
HIS OFFICIAL CAPACITY AS SPEAKER OF THE  
HOUSE OF REPRESENTATIVES; CHRIS MURPHY,  
IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF  
THE HOUSE OF REPRESENTATIVES JUDICIARY  
COMMITTEE; WALLACE H. JORDAN, IN HIS  
OFFICIAL CAPACITY AS CHAIRMAN OF THE  
HOUSE OF REPRESENTATIVES ELECTIONS LAW  
SUBCOMMITTEE; HOWARD KNABB, IN HIS  
OFFICIAL CAPACITY AS INTERIM EXECUTIVE  
DIRECTOR OF THE SOUTH CAROLINA STATE  
ELECTION COMMISSION; JOHN WELLS, JOANNE  
DAY, CLIFFORD J. ELDER, LINDA MCCALL,  
AND SCOTT MOSELEY, IN THEIR OFFICIAL  
CAPACITIES AS MEMBERS OF THE SOUTH  
CAROLINA STATE ELECTION COMMISSION.

## Defendants.

DEPOSITION OF: ANDREW THEODORE FIFFICK  
(Appearing via VTC)

**DATE:** July 21, 2022

TIME : 10 : 10 a.m.

Page 12

1 state house maps, I believe.

2 Q. And what about in an intentional racial  
3 discrimination claim? Are you familiar with  
4 whether or not that claim has been raised?

5 A. Now, I think that's something that's  
6 been alleged. I mean, I can tell you everything  
7 I've seen from my perspective as the chief staff of  
8 record research, that's baseless.

9 Q. Okay. And what do you understand a  
10 racial gerrymander to mean?

11 A. Again, I defer to outside counsel on  
12 this issue, but I mean, I think it's when you draw  
13 a map a way that subjugates traditional  
14 redistricting principles in favor of drawing based  
15 on race.

16 Q. And how does that compare to your  
17 understanding of an intentional discrimination  
18 claim?

19 A. I mean, I don't recall the difference  
20 between the two, I just know that nothing I can  
21 remember in the process resembled anything in terms  
22 of race being a predominant factor.

23 Q. Okay. Was race a factor in the  
24 development of the congressional map?

25 A. It was something that was available to

Page 13

1 everyone, but it was something that was on the back  
2 end so that outside counsel could check for. And  
3 again, I'm not the expert here. My impression is  
4 that on the back end, outside counsel might want to  
5 look at what I think is called the Section 2 claim  
6 where you might need to use racial data. But it's  
7 my understanding there is no Section 2 claim and I  
8 don't recall outside counsel ever, you know,  
9 needing to use that data. But that data was  
10 available to everybody, and anybody who asked for  
11 it, that sort of data was to go to them for sure.

12 Q. And when you refer to outside counsel  
13 having looked at it, are you referring to -- you  
14 mentioned Mr. Terreni, you mentioned Mr. Gore, and  
15 you mentioned Mr. Tyson. Is that who you're  
16 referring to?

17 A. I don't recall Mr. Tyson doing a whole  
18 lot of review. It was kind of a hierachal thing.  
19 You know, Charlie was more involved because he's  
20 here. You know, we would bounce it off of Charlie  
21 and then Charlie would send it on to John Gore.

22 And there really were very few maps so  
23 it wasn't a whole lot of review. I don't think we  
24 drew more than 20 maps that outside counsel saw, if  
25 that, probably less than that. Probably less than

Page 86

1       Clyburn's office?

2           A. Not on my part, no, not that I'm aware  
3       of any notes.

4           Q. Are you aware of anyone else who  
5       communicated with his office outside?

6           A. No.

7           Q. Now, you mentioned that the map that  
8       Senator Clyburn's office brought was sort of cast  
9       away? Is that fair to say or was not implemented?

10          A. I don't recall. I don't think it was  
11       implemented because no member of the Senate ever  
12       came to us and said to do something with it.  
13       That's my recollection. I don't know where it  
14       ended up. Again, no member of the Senate came and  
15       asked us to do anything with it so we didn't. So I  
16       don't know if it just ended up on the floor or in  
17       the trash can or something. I mean, and it didn't  
18       sound like something that -- well, I know it wasn't  
19       because Mr. Tresvant in Tom's office never followed  
20       up.

21          Q. Do you know whether that map informed  
22       anything that Will Roberts did in terms of drawing  
23       up a congressional map?

24          A. It did not because we operated on  
25       instructions of members and I never received any

Page 87

1 instruction that I can remember, obviously remember  
2 about that map.

3 Q. So you did not operate on the  
4 assumption that Representative Clyburn's district  
5 should minimally change from the old map to the new  
6 map?

7 A. I mean, that was something that was  
8 articulated by the Senate members from the very  
9 beginning. They were going for the least change  
10 map. I mean, Luke Rankin mentions that many times  
11 in the committee. So that was well known across  
12 the board, minimal changes.

13 Q. Which members wanted a least change  
14 map?

15 A. I couldn't list them there's so many.

16 Q. Where did they communicate this?

17 A. Well, I mean, Rankin said it in open  
18 testimony. And I'm sure Campsen was in favor of  
19 that, the least change map. I know Rankin  
20 explicitly told me he did not want the 7th district  
21 to change at all. So it was oral communications.  
22 There may be some emails out there. Y'all would  
23 have them if they're out there.

24 Q. But Representative Clyburn's office,  
25 you're not aware that Representative Clyburn's

Page 93

1 trailing off.

2 THE WITNESS: Yes. Sorry.

3 BY MS. ADEN:

4 Q. Mr. Fiffick, before we went on break,  
5 you mentioned some of the information that you have  
6 received from members of the U.S. Congress related  
7 to the congressional map. Did you learn that any  
8 congressional member wanted to maintain CD7 as  
9 similar to or exactly like how it appeared in the  
10 2010 map?

11 A. No, I did not. Not specifically.

12 Q. What do you mean not specifically?

13 A. That information was not ever conveyed  
14 to me specifically there was a member of congress  
15 and that's the case.

16 Q. Was it conveyed to someone else that  
17 you're aware of?

18 A. No. No. I mean, Senator Rankin wanted  
19 to keep the setting the same. I know that.

20 Q. Did he say that publicly in any of the  
21 proceedings that you were a part of?

22 A. I believe he said at the very least  
23 that it was a least change plan.

24 Q. But no one specifically said keep CD7  
25 as similar to the post-2010 map?

Page 94

1           A. Senator Rankin.

2           Q. Did you ever see -- any of the  
3 recommendations that you got on these calls with  
4 Representative Wilson, Representative Clyburn,  
5 other members or their staff, were those  
6 recommendations ever committed to writing at any  
7 point?

8           A. Not by me and I'm not aware of anybody  
9 ever doing that either. They were really simple  
10 broad, easy to remember things that --

11          Q. Were you -- I'm sorry.

12          A. I think I've already said what they  
13 were. They were very broad, easy to remember  
14 things.

15          Q. Were they ever communicated -- did you  
16 communicate these broad principles to any  
17 subcommittee members?

18          A. I'm sure I did. I don't remember who  
19 and when, but I'm sure we would have mentioned that  
20 to Senator Campsen especially.

21          Q. What about Senator Bright Matthews  
22 since she's come to the map room?

23          A. I would guess yeah, we probably  
24 mentioned it to her too. I don't remember  
25 specifically mentioning it to her or Campsen. But

Page 119

1       there was that water contiguity is acceptable. I  
2       don't remember where that comes from, but that was  
3       another thing that we referred to outside counsel  
4       and they found acceptable.

5           Q.     Looking to the next category, Roman  
6       Numeral III, Additional Considerations. It's on  
7       the next page. Do you mind --

8           A.     Sure.

9           Q.     Well, I guess I'll look at it myself.  
10       Is it fair to -- under Roman Numeral III,  
11       Additional Consideration, it reads, Other criteria  
12       that should be given consideration, where practical  
13       and appropriate, in no particular order of  
14       preference.

15           Am I reading accurately what follows  
16       that category?

17           A.     Yes, ma'am.

18           Q.     Okay. Did you understand the things  
19       that follow in this part of the Senate guidelines  
20       to be of lower priority to compliance with federal  
21       law and the categories that preceded this section?

22           A.     That wasn't my understanding, but  
23       that's -- well, yeah, based on outside counsel's  
24       advice, yes, these were things that could not, you  
25       know, or should not be considered over the

Page 120

1       federal --

2           Q.     But --

3           A.     -- guidelines.

4           Q.     I'm sorry. I cut you off.

5           A.     I'm sorry. My understanding from  
6 outside counsel is that this stuff in No. III are  
7 additional considerations that were not as  
8 paramount as the federal -- requirements of federal  
9 law, and then additional considerations, I think in  
10 here it tells you in this document the difference  
11 between the two.

12          Q.     And the words that I read, other  
13 criteria that should be given consideration, where  
14 practical and appropriate, in no particular order  
15 of preference, does that also give support for the  
16 idea that these are of lower priority than the  
17 federal requirements that precede it?

18          A.     I mean, that could be construed that  
19 way, yes, ma'am. It's up to members of the Senate  
20 to consider whatever they want to consider when  
21 they're making decisions. And when those decisions  
22 were made and turned into maps based on those  
23 decisions how they wanted the map drawn, we then  
24 submitted them to outside counsel to review.

25          Q.     Looking at subcategory III(A), what is

Page 123

1       that's probably something that's a subjective term  
2       that could be up to whatever member of the Senate,  
3       you know, wanted to interpret it as they asked us  
4       to draw the map.

5           Q.     You earlier mentioned that Will Roberts  
6       and you in the map room and others had access to  
7       race data.  Can you tell me a little bit more about  
8       what data you had?

9           A.     I'm hardly an expert in all the DOJ  
10      black, BVAP, non-Hispanic black.  It was that sort  
11      of information.  I don't know the distinctions very  
12      well, but it was information from the census.  
13      There's some documents in here that y'all have  
14      shown, you know, the charts that they produced that  
15      reflected that information.

16           Q.     How did Will Roberts with you in the  
17      room consider race in developing any of the maps  
18      that you drew in that map room?

19           A.     I'm not aware that he did that at all.  
20      If a member of the Senate in their own mind  
21      considered it and then asked us to draft something,  
22      they may have.  I don't know.  The maps were  
23      drafted with the instruction numbers.  So it wasn't  
24      a matter of Will considering the information, it's  
25      not a member presenting the information, and then

Page 124

1 us presenting the information and the maps to our  
2 outside experts who then decided whether or not  
3 they passed federal common law.

4 Q. Are you aware of whether race data was  
5 loaded into the computer that y'all shared in the  
6 map room?

7 A. Oh, yeah. It was, yeah, for sure.

8 Q. Was it on a screen projected on the  
9 wall at any time as you were developing maps?

10 A. I was not developing maps, but as  
11 members came in and wanted to talk about maps, yes,  
12 members came in and asked about those numbers.

13 Q. For the maps that were transmitted to  
14 Mr. Terreni and Mr. Gore, did they include  
15 associated data with them?

16 A. I'm sure they did. I'm sure Charlie  
17 Terreni saw the associated data when he was in the  
18 room and I'm sure Will would bring set statistics  
19 to John Gore when they sent any map to us.

20 Q. And are you aware of whether race data  
21 was one of the categories of data that was part of  
22 that?

23 A. I believe it was, yeah.

24 Q. What other ways was race considered as  
25 maps were developed, congressional maps were

Page 125

1       developed by you and the legislators during the  
2       last cycle?

3           A. I never considered it and I wasn't  
4       developing maps. I don't know the extent to how  
5       much it, you know, entered into the mind of the  
6       members that were in the map room. But I can tell  
7       you for a fact I don't remember Chip Campsen ever  
8       asking about racial data ever. And if Margie  
9       Bright Matthews and Senator Sabb and Senator Scott  
10      or some of the other folks that came to the map  
11      room asked about it, it wasn't an aforethought. It  
12      was not something that I watched Will Roberts draw  
13      a map based on it.

14           Q. Did someone tell you to never consider  
15      race data as you were developing maps?

16           A. No.

17           Q. So how did you know not to use it?

18           A. Well, I mean, that's kind of really a  
19      negative. No one asked me to use it so I didn't  
20      use it. I didn't use it because I didn't draft the  
21      map. Will did based on instruction from the  
22      senators, so...

23           Q. But how did you know to use total  
24      population data?

25           A. These guidelines, I guess, is one way I

Page 126

1 used it.

2 Q. Where do you see total population  
3 identified in these guidelines? Take a minute and  
4 show it to me.

5 A. I mean, this gets back to your point on  
6 I(A)(2), but the last sentence there, congressional  
7 redistrict plans should not have population  
8 deviations greater than one person.

9 Q. But does it tell you what data to look  
10 at in order to determine compliance with that  
11 guideline?

12 A. Oh, no. I guess that's pretty, I mean,  
13 that's easy. The census information is the factor.

14 Q. Do you know what data you would use to  
15 determine compliance with the Voting Rights Act?

16 A. I guess it would depend on which part  
17 of the Voting Rights Act you were talking about and  
18 that's something I defer to outside counsel.

19 Q. Which parts of the Voting Rights Act  
20 are you aware of?

21 A. I think it was Section 2 or Section 5.  
22 Section 5 doesn't apply anymore. But again, it  
23 wasn't important.

24 Q. What do you know about Section 2?

25 A. I think it's probably in the

Page 127

1 redistricting guidelines. I would defer to outside  
2 counsel. But I think it's basically that race  
3 cannot be the common factor in drawing a map. It  
4 never came up because no one ever said it was a  
5 predominant factor. Nobody asked for race to be a  
6 factor. But again, I'll defer to outside counsel  
7 on that issue.

8 Q. So Senator Bright Matthews, Senator  
9 Sabb, Senator Harpoontlian, none of those members,  
10 Senator Hutto, none of those members ever asked for  
11 race to be considered in the development of  
12 congressional maps?

13 A. I mean, I think race has to be  
14 considered, but no one came and asked us to  
15 consider race, no. But I think that based on my  
16 understanding from outside counsel, they had to  
17 review numbers on maps and how the maps were drawn  
18 to ensure compliance with state and federal law or  
19 federal law.

20 Q. And that was after the fact so you  
21 looked to see whether race was considered or not  
22 considered after the fact; is that your position?

23 A. I mean, our outside counsel did that.  
24 There were times when members asked about what's to  
25 be back in this area, but it was not a predominant

Page 128

1 factor. It was not something someone came in and  
2 said, hey, draw this this way so that X number of  
3 folks or that X number of districts or whatever.  
4 It was after the fact at least from my perspective  
5 and outside counsel. I can't tell you what was in  
6 the heads of the members, but I can tell you no one  
7 came in and said I want race to be a predominant  
8 factor in drawing this map.

9 Q. I think you mentioned that Ms. Benson  
10 put together information -- well, let me ask you.

11 Did subcommittee members have maps and  
12 data available to them as they were considering  
13 maps during the public hearings?

14 A. Yes. There were notebooks.

15 Q. Who put those notebooks together?

16 A. Our clerical staff put them together.  
17 Maps were printed out by, I guess, Will and Breeden  
18 and then I guess Michelle McGee as our meeting  
19 coordinator. Purely as an administrative function  
20 we put them in notebooks for the members.

21 Q. And what was in those notebooks?

22 A. To my recollection, it was maps and  
23 statistics, demographic statistics. I can't recall  
24 off the top of my head all the different things  
25 that were in the notebooks. It was mostly maps --

Page 129

1 well, it was. It was maps and demographic  
2 information.

3 Q. And would it have included racial  
4 demographic data?

5 A. I think it did.

6 Q. Excuse me?

7 A. I think it did, yes. I do believe that  
8 those things were in there.

9 Q. And does that mean that racial  
10 demographic data was available to members before  
11 the final map was signed into law for the  
12 congressional plan in South Carolina?

13 A. Yes. Even if it hadn't been in those  
14 books, you know, someone could ask for it. I don't  
15 think they would have been denied the information.

16 Q. You've worked in the legislature for  
17 many years. Is it fair to say that legislative  
18 members know who lives in their district?

19 A. Yes.

20 Q. And is it fair to say that legislative  
21 members know the ethnicity of people who live in  
22 their district?

23 A. I would think so, yeah, uh-huh.

24 Q. The race of people who live in their  
25 district?

Page 130

1           A. I don't know how many of them know how  
2       many of which type of race or whatever, but, I  
3       mean, I think they live there so I would think so.  
4       I don't know.

5           Q. And they may know the economy, the  
6       economic background of members who live in their  
7       district?

8           A. That's right.

9           Q. Okay. This communities of interest  
10      back in the guidelines III(B) also references  
11      historic characteristics. What did you understand  
12      that to mean?

13          A. Where are you again? I'm sorry.

14          Q. III(B). There's a number of different  
15      things that are identified as communities of  
16      interest and one of them is historic or other  
17      characteristics, and I'd like to know what you  
18      understood a historic characteristic to mean?

19          A. In III(B)?

20          Q. Yes.

21          MR. TYSON: III(A). III(A).

22          MS. ADEN: III(A). I'm sorry. Thank  
23      you for correcting me.

24          THE WITNESS: I mean, I think it speaks  
25      for itself. I mean, historic characteristics. I

Page 131

1 mean, the City of Camden, it's called the City of  
2 Camden Historic District. And the people from  
3 Camden are proud they're from Camden. History is  
4 something that people think about, so...

5 Q. Are you familiar with the area West  
6 Ashley in Charleston?

7 A. I know where it is yes, ma'am.

8 Q. Did you hear about West Ashley during  
9 consideration of the congressional map?

10 A. In the context of some members wanting  
11 Charleston to be made whole as opposed to I believe  
12 some people were saying kept whole, you would have  
13 had to have put West Ashley and all of Charleston  
14 County into the 1st Congressional District to  
15 achieve the request for, say, Senator Sabb who has  
16 that venue that I think is called Charleston  
17 Strong. Yes, you would have to -- that was -- yes.

18 Q. Of the people who spoke about West  
19 Ashley during the road shows or any of the  
20 redistricting hearings that you were part of, did  
21 the majority or minority of people who spoke about  
22 it want West Ashley to remain in Congressional  
23 District 1 or not?

24 A. I don't recall specifically. I do know  
25 there were a lot of people that wanted Charleston

Page 132

1 to be all in one district.

2 THE REPORTER: I'm sorry. I need to  
3 interrupt. Can we take a break? I am having  
4 issues with my computer.

5 MS. ADEN: Should we just tell the  
6 court reporter --

7 I mean, can you do that by 1:15 or do  
8 you want until 1:30?

9 MR. TYSON: What time is it now?

10 MS. ADEN: It's 1:03.

11 THE REPORTER: 1:30.

12 (Off-the-record conference.)

13 (A recess transpired.)

14 THE REPORTER: Would you like me to  
15 read the last question?

16 MS. ADEN: Yes, please.

17 (The court reporter read the question  
18 commencing on page 131, line 18.)

19 THE WITNESS: Well, my recollection is  
20 that probably the majority of the folks we saw at  
21 the public hearing were there to advocate for  
22 changing the districts in a way that would put all  
23 of Charleston into District 1.

24 And so I would say more people probably  
25 would have wanted it in District 1 because they

Page 133

1       wanted all the Charleston industry. I don't recall  
2       whether that was people professing it in terms of  
3       West Ashley, but I do know that those people would  
4       be the subset of the people that wanted Charleston  
5       to be wholly encompassed into District 1, which  
6       would have been -- wouldn't be a least change plan  
7       as what we were instructed to do.

8                     But I don't remember people saying, I'm  
9       from West Ashley. You know, I don't recall that,  
10      but I'm sure that there were probably some from  
11      this area.

12     BY MS. ADEN:

13     Q.    So you understood keeping Charleston  
14      whole to --

15     A.    Well, I would say making it whole --

16                     MR. TYSON: Let her ask the question.

17                     THE WITNESS: Okay.

18                     MS. ADEN: Thank you.

19     BY MS. ADEN:

20     Q.    You understood keeping Charleston whole  
21      in CD1 to be in conflict with the least change map  
22      making process?

23     A.    I guess it would have been. I don't  
24      know. Recalling off the top of my head, maybe I'm  
25      mistaken. But I guess it would have been a change

Page 134

1 because, from my recollection, is that Charleston  
2 was not all in one congressional district so I  
3 guess that's my comprehension of it, looking back,  
4 is that if the preexisting districts did not have  
5 Charleston all in the 1st Congressional District  
6 and a map, say, Ronnie Sabb's Charleston Strong  
7 Map, I think, put it all into one district, that  
8 seems to me would have been more of a change than  
9 otherwise and maybe I'm incorrect on that. I may  
10 be remembering that wrong.

11 Q. If you still have the Senate guidelines  
12 in front of you, do you mind taking a moment and  
13 looking at the guidelines and tell me where you see  
14 reference to a least change congressional map.

15 A. I would say that would be -- let's see,  
16 in I(2) -- I(A)2, I think, Preserving the cores of  
17 prior districts and avoiding contests between  
18 incumbent representatives.

19 Q. I(A)(2) is Congressional Districts for  
20 me. What are you looking at?

21 A. Yes, ma'am. It's right in the middle.  
22 It's in the middle of the paragraph, Preserving the  
23 cores of prior districts and avoiding contests  
24 between incumbent representatives. I think that  
25 kind of encompasses that theory of the least change

Page 135

1 plan. It does not say least change plan, if that's  
2 what you're getting at.

3 Q. How does the preserving -- how do you  
4 view the preserving of cores of prior districts to  
5 interact with the one person, one vote principle  
6 which is discussed in that bullet?

7 A. I would say that the one person, one  
8 vote is more important than -- I mean, that's a  
9 postulate map. We didn't rank these things. I  
10 think we can all agree that that's a must. You've  
11 got to conform with the one person, one vote and  
12 being within that one person, which -- I don't  
13 think we ever drew a map that didn't do that. They  
14 all had to do that.

15 Q. And so your position is that getting to  
16 one person deviation is a priority unless --  
17 because unless falling outside of that could be  
18 justified by something like preserving a course of  
19 prior districts; is that your understanding?

20 A. No. No. We took that one person, one  
21 vote thing so seriously, we never drew a map. I  
22 mean, never drew a map that wasn't -- that I can  
23 recall that was outside the one person. I mean,  
24 that was something Will did every time, all the  
25 time without anybody ever asking. They wouldn't

Page 136

1 ask you not to do it. That was sort of a -- like I  
2 said, I would call that a postulate.

3 Q. Were you ever instructed as a criteria  
4 to make a 6-1 Republican-leaning map?

5 A. A one -- make one lean Republican?

6 Q. Make six lean Republican, one not --

7 A. I don't recall --

8 Q. -- districts?

9 A. No, I don't recall ever having anybody  
10 ask me to do that. But it's all a matter of  
11 semantics. I mean, you can number anything you  
12 want. You can change the numbers. You can swap  
13 the numbers, the 1st on the 6th, the 6th for the  
14 1st. But no, no one ever asked me.

15 Q. So it was not your understanding that  
16 you were driven or members were driven to create a  
17 congressional map where six districts based upon  
18 political data or some other information suggested  
19 that they would likely vote for Republican  
20 candidates as compared to one district that would  
21 likely vote for Democratic candidates? That was  
22 not something that guided the work that you were  
23 aware was being done in the congressional mapping?

24 A. Again, that was the whole context --

25 Q. Yes, it was long. It got narrative.

Page 137

1                   Are you aware of any instruction by any  
2 member that those in the map room should draw a  
3 sixth district that leaned Republican and  
4 one district that leaned Democrat?

5                   A. I don't think anybody ever asked us to  
6 do one where the 6th leaned Republican. I think  
7 there's many members probably who wanted the 1st to  
8 lean Democrat.

9                   MR. TYSON: Leah, can I interject here?

10                  MS. ADEN: Yes.

11                  MR. TYSON: I think y'all are on  
12 different pages. You're talking about six of one  
13 and one of the other, and, I think, Andy, you're  
14 talking about the 6th district versus the 1st.

15                  THE WITNESS: Yeah. I thought you were  
16 talking the 6th district -- you're talking about  
17 all of them. You're talking about six other  
18 districts --

19                  MR. TYSON: And I'm sorry to interrupt,  
20 but I just wanted that --

21                  MS. ADEN: Thank you for helping me  
22 clarify.

23 BY MS. ADEN:

24 Q. And if you could lean forward, I am  
25 losing you.

Page 138

1           A. Yeah, sure.

2           Q. Are you aware of any instruction by any  
3 member of the legislature or anyone else that you  
4 and the team developing maps should be drawing six  
5 districts of the seven that lean Republican and  
6 one district of the seven that leans Democrat?

7           A. I don't recall anybody asking for that,  
8 but that doesn't mean we didn't have it. That  
9 wasn't something that I remember.

10          Q. Who would have been told to do that if  
11 it had been told?

12          A. It would have been articulated to, you  
13 know, one of us in the map room or all of it at the  
14 same time in the map room. And so much of our  
15 drafting was in realtime with the members, so it  
16 would have been -- the most common way for any of  
17 those instructions to occur would be in realtime in  
18 the map room, either Zooming with a member of the  
19 general assembly -- or a member of the Senate or  
20 with a member of the Senate in the office.

21           I don't recall that happening. You're  
22 saying six Republican and one Democrat. I don't  
23 remember that being...

24          Q. In looking at the guidelines in front  
25 of you, do you see that as a criteria identified in

Page 160

1       would defer to outside counsel on -- I think that's  
2       an analysis for racial gerrymandering that they  
3       never -- that was never relayed. No one came to us  
4       and asked for that sort of analysis that I can  
5       recall.

6                  I think there was questions about  
7       whether -- Senator Harpootlian asked if there was  
8       some kind of analysis or something like that, but  
9       he never asked us to do it. No member never asked  
10      us to do it. So the practical matter is that  
11      didn't have anything to do with us.

12               Q.     So it's your position that Senator  
13      Harpootlian never asked you to study the  
14      correlation between race and political affiliation  
15      in South Carolina?

16               A.     My recollection is he asked us if we  
17      did, if we had. He may have, in the way he asked  
18      it, implied that he wanted us to, but he never came  
19      to us and said, Andy, I want you to do an analysis  
20      of correlation between race and politics in South  
21      Carolina, no.

22               Q.     In public testimony or in your work in  
23      the Senate, whether you agree with this perception  
24      or not, are you aware of a perception that black  
25      voters tend to vote for Democrats and white voters

Page 194

1 his thing to turn it into a map.

2 Q. How did you know that this had anything  
3 to do with congressional redistricting based upon  
4 the subject of the email and based upon you never  
5 having talked to this person?

6 A. I think Charlie Terreni is who told me.  
7 I'm not sure about that.

8 Q. But you get an email to your Gmail and  
9 you get a file that asks you to download something  
10 and you trusted what was being sent to you to  
11 download it onto a flash drive and then take it to  
12 the Senate's lone computer that's being used to  
13 develop congressional maps to just see what's in  
14 it.

15 A. Yeah, because it was based on a  
16 conversation that Charlie Terreni had. We thought  
17 maybe there were members going to follow up and  
18 want to see the maps.

19 Q. So you got this map and then you have a  
20 conversation with Mr. Terreni where he makes you  
21 aware that this was coming to you or how --

22 A. This all happened in realtime. My  
23 recollection is that somehow Charlie knew there was  
24 a map. Somebody wanted to get us a map. It was  
25 someone Charlie knew. I didn't know who it was.

Page 195

1       And Charlie trusted them enough, I guess. And we  
2       said, well, this guy wants to send a map. He can't  
3       do it through the Senate accounts, he's using a  
4       Gmail box. It could have just as easily been  
5       Charlie's email box, but we just used mine because  
6       my office happened to be right back in the other  
7       room.

8           Q.     Would Mr. Terreni, as one of the key  
9       decision makers, have been aware of the Senate  
10      policy from September 2020 which delineated that  
11      maps had to be submitted in a particular way?

12          A.     I'm sure he was, yeah.

13          Q.     So despite knowledge of that policy,  
14       he, notwithstanding, agreed that NRRT could submit  
15       a map that is out of compliance with multiple  
16       provisions of that policy?

17          A.     I think it was that the portal might  
18       not have been up or something. I mean, I think it  
19       was -- that's why I say there was a point in time  
20       we stopped receiving maps. It may have been  
21       that -- this was way after all the other maps came  
22       in. So I suspect it was because -- it may be that  
23       the portal may have been working more or something.

24          Q.     But you're not aware that Mr. Terreni  
25       or anyone else who was a key decision maker told

Page 235

1 emails that he had received about the treatment of  
2 Beaufort and Charleston?

3 A. I don't remember him mentioning  
4 thousands of emails about that. I know he was of  
5 the opinion that Charleston would benefit from  
6 having two, you know, congressional districts.  
7 That was a fact. That sentiment would go along  
8 with a position he received a lot of information  
9 trying to persuade him about this.

10 Q. Have you ever seen those communications  
11 from the emails that Senator Campsen referenced  
12 about the treatment of Charleston and Beaufort?

13 A. I'm sure I've seen some of them, but I  
14 don't know that I've seen all of them. I recall it  
15 was a very stark contrast with folks that either  
16 wanted Charleston whole or they didn't want  
17 Charleston whole. So the nuances of each of those  
18 and who they were from and all that, I can't say  
19 right now.

20 Q. Did you ever invite Mr. Kincaid to  
21 submit public testimony like the call that I  
22 received or the call that other members of the  
23 public received during the legislative process?

24 A. I did not.

25 MR. TYSON: Object; asked and answered

Page 245

1           A. I don't remember the exact date. It  
2 would have been sometime after -- I don't remember  
3 the exact date.

4           Q. At that time did you have a plan for  
5 the trajectory of how the bill would proceed  
6 through the legislative process?

7           A. A directory?

8           Q. A trajectory, a plan for the process  
9 that it would take through the legislative process.

10          A. No, I did not. I figured it would be  
11 up to the subcommittee and full subcommittee, the  
12 body, the full Senate. No.

13          Q. On November 23rd, the Senate  
14 redistricting subcommittee publicly posted a plan  
15 called the 2021 Staff State Congressional Plan. Do  
16 you recall that proposal?

17          A. I can't envision it, but I do recall  
18 that that happened, yes.

19          Q. Did you have a role in developing the  
20 staff's initial Staff Plan?

21          A. Yeah. Yeah, I guess I did.

22          Q. What was that?

23          A. You know, we'll withdraw things and  
24 kind of eyeball things and see if -- we had some  
25 direction from members. I don't remember what

Page 246

1 direction we had at that point from any, but we had  
2 some direction from members. And we just put  
3 together a plan for them to start the data.

4 Q. To start?

5 A. Just a starting point. I mean, they  
6 had to start with something. I think it was -- I  
7 know what it was. It was because we had -- Will  
8 endeavored to draw a map that moved the requisite  
9 80 something thousand people into the 6th out of  
10 the 1st because it was an easy one to one swap.

11 Q. Was the only way to make up the under  
12 population in CD6 to take voters out of CD1?

13 A. No. There's all kind of ways to do it.

14 Q. Okay. Do you know how long it took  
15 from start to finish to complete this initial Staff  
16 Plan?

17 A. I don't remember, no.

18 Q. Besides you or Mr. Roberts, who would  
19 you say had input into the initial Staff Plan?

20 A. Charlie Terreni to the greatest extent.  
21 To a lesser extent, Breeden John.

22 Q. Why do you say Mr. Terreni?

23 A. Because he was our outside counsel and  
24 30 years of experience with redistricting.

25 Q. Did he actually draw lines or did he

Page 247

1 just provide the legal guidance that you've been  
2 talking about since the beginning of the day?

3 MR. TYSON: Asked and answered.

4 BY MS. ADEN:

5 Q. Did he draw lines? I know he was --  
6 did he draw lines?

7 A. He wasn't physically on the computer.  
8 Will was always on the computer.

9 Q. Was he sitting next to Mr. Roberts  
10 directing him about where lines might go?

11 A. Yeah. I mean, Will was drawing these  
12 things and, you know, if somebody noticed that,  
13 hey, you might want to follow that river because  
14 it's a geographic boundary or something, I don't  
15 remember, you know. But, I mean, yeah, he would  
16 have been commenting about the map. I wouldn't say  
17 he drew it though.

18 Q. Did you provide that type of  
19 directions, you know, follow the river? Did you  
20 provide that type of guidance to Mr. Roberts?

21 A. We all kind of commented on it all  
22 together. I mean, it was sort of an aggregate of  
23 people discussing. And then we got the map  
24 together, and I think we sent it to John Gore, and  
25 then we gave it to the subcommittee, and then they

Page 248

1 did what they wanted to do with it from there.

2 Q. Did any subcommittee members have  
3 involvement in the development of that initial  
4 staff map?

5 A. I think we may have spoken to some of  
6 them. I don't recall. It would have been broad  
7 strokes. You know, it would have been like -- it  
8 wouldn't have been -- I don't believe they sat in  
9 the map room like they did subsequently. I could  
10 be wrong. I may be mistaken, but I don't recall  
11 that.

12 Q. And those conversations with any  
13 subcommittee members would have happened  
14 informally, not because they came together in a  
15 meeting of the subcommittee?

16 A. That's right. It would have been  
17 informally.

18 Q. And were there any involvement from  
19 House staff members in the development of this  
20 initial Staff Plan?

21 A. General trend setting, ma'am, because  
22 they gave me a separate thing, a separate one sheet  
23 paper map that's similar.

24 Q. Outside of the people that you  
25 identify, Mr. Roberts, Mr. Terreni, yourself, and

Page 249

1 to, I guess, a lesser extent Mr. Breeden, is there  
2 anyone else who was involved in the initial Staff  
3 Plan development?

4 A. I'm not sure there was some discussion  
5 with members. I don't recall specifics. I don't  
6 remember if at that point we already knew that Luke  
7 Rankin, for example, didn't want the 7th changed at  
8 all. I think we probably knew that. I can't  
9 recall. It would have been broad strokes like  
10 that.

11 Campsen may have mentioned, you know,  
12 talked to congressman in Charleston and keeping the  
13 blue -- I'm sorry, the red nature, slight Trump  
14 advantage. He may have mentioned that to us. I  
15 don't remember that far back.

16 Q. How did public input from the ten  
17 hearings that you attended, how was it reflected or  
18 implemented in that initial Staff Plan?

19 A. Well, I mean, I think we took some of  
20 it into account. I mean, I don't remember exactly.  
21 I do not remember specific outside input prior to  
22 the staff map being put into the staff map, but the  
23 general sense we got from the public and all that,  
24 I think that was all to be refined by the members  
25 based on what weight they had, what weight they put

Page 253

1       recollection -- I guess we'd call this an eyeball  
2       test -- I don't remember it being possible.

3           Q. And do you think you can make a  
4       determination about whether there can be a majority  
5       black district based upon an eyeball view?

6           A. Well, I mean, looking at it, looking at  
7       the map and where the population was, I just don't  
8       think we thought -- and this is in Section 2 House  
9       so it would be much more in Charlie's wheelhouse,  
10      but I don't think -- and also no one ever came to  
11      us and asked us to do one either, so I think those  
12      are the factors that kind of led us down that path.  
13      I don't recall anybody ever asking us to do that.

14           Q. But you are not aware of anyone  
15       affirmatively attempting to draw an additional  
16       majority black district?

17           A. No. I don't recall ever doing that,  
18      no.

19           Q. Was the political data, the 2020  
20       presidential election data considered during the  
21       development of this initial Staff Plan?

22           A. I believe so, yes.

23           Q. Was a racially polarized voting  
24       analysis conducted during consideration of this  
25       initial Staff Plan?

Page 254

1                   MR. TYSON: Objection; asked and  
2                   answered numerous times.

3                   THE WITNESS: No. Not to my knowledge,  
4                   no.

5                   BY MS. ADEN:

6                   Q. Who would have been responsible for  
7                   making the assessment that the initial Staff Plan  
8                   was not a racial gerrymander?

9                   A. We would have relied upon Charlie  
10                  Terreni and John Gore.

11                  Q. What about whether the districts were  
12                  contiguous? Who would have made that assessment in  
13                  the initial Staff Plan?

14                  A. It would have probably been -- Will  
15                  drew the map so he could see whether things were  
16                  produced or not. So we all looked at the map, but  
17                  he was actually drawing a map so that's pretty much  
18                  a no brainer to draw a map that's contiguous.

19                  Q. And what about communities of interest?  
20                  Who would have taken responsibility to ensure that  
21                  those kind of guideline criteria respecting  
22                  communities of interest was respected, reflected in  
23                  the initial Staff Plan?

24                  A. I think it would have been a kind of  
25                  everybody in the room discussion.

Page 258

1       in any district.

2           Q.     Did you have a goal of getting BVAP in  
3       any particular district outside of CD6?

4           A.     No.   We didn't have a goal in CD6 per  
5       se.   There was no goal to sort of say get CD6 BVAP  
6       on any district.

7           Q.     But there was a goal to keep the map as  
8       minimally changed at least as Senator Rankin --

9           A.     Correct. Yes, ma'am.

10          Q.     Turning to November 29th, after the  
11       Senate Redistricting Committee published the map,  
12       what, if anything, did you do on congressional  
13       redistricting from November 23rd until the 29th  
14       when it was published?

15          A.     You know, I don't recall exactly what  
16       was going on at that point. That would have been  
17       around Thanksgiving?

18          Q.     Around that time, yes.

19          A.     Then probably not too much because that  
20       week was probably shut down or at least not very  
21       active because it was Thanksgiving.

22          Q.     For the November 29th hearing, did you  
23       prepare any materials?

24          A.     I did not that I recall.

25          Q.     Were those materials similar to the

Page 280

1           A. I mean, other than looking at them  
2 online, I don't recall what he may have done now  
3 with the maps.

4           Q. Who was responsible for evaluating the  
5 seven or so public maps?

6           A. I mean, I guess we assumed they were  
7 going to stand on their own merit. Now, if a  
8 member asked to do amendments, that more work would  
9 be done on them, but that didn't happen until the  
10 very last minute when I made that phone call to you  
11 about Senator Hutto the day before the floor when  
12 he said, hey, I want these maps to be amendments.

13          Q. And we didn't talk in response to your  
14 outreach to me; is that correct?

15          A. That's correct. I left you a voice  
16 mail. I did leave you a voice mail.

17          Q. But you and I did not connect on that?

18          A. We did not, no. And just to finish  
19 that answer, I made similar phone calls to other  
20 people that submitted their maps that say, hey, do  
21 I do have your maps. Do you have talking points?  
22 If anyone wants to present your map, you need -- to  
23 have a chance, you probably need to get something  
24 so you can say what you want to say about your map.

25          Q. For instance, Senator Harpootlian

Page 281

1        introduced maps by the league. And is that what  
2        you mean? Was that an occasion where you had  
3        outreach?

4            A. Yeah. That would have been the two  
5        days -- the days before the maps were on the floor  
6        were when we filed and got requests for amendments  
7        using your map basically.

8            Q. Sorry?

9            A. And I believe there's testimony about  
10        those maps too. So members had testimony. The  
11        members knew the maps were there. We didn't get  
12        any requests about them until Senator Hutto asked  
13        about them that I can recall until Senator Hutto  
14        asked about them maybe two days before the hearing.

15            Q. But the maps that the public proposed  
16        did not inform the work that the staff was doing  
17        except to the extent that a member of the  
18        legislature expressed an interest in them and then  
19        you paid attention to them or how did you consider  
20        the seven proposed maps from the public in the  
21        review process?

22            A. I think some of those other maps may  
23        have been formed when Margie Bright Matthews or  
24        Senator Sabb asked questions off of them, but I  
25        don't recall specifically sitting down and saying,

Page 282

1       well -- or any of us sitting down and saying we've  
2       got these seven public maps independent of  
3       direction from a member wherein you'd sit down and,  
4       you know, draw and analyze the maps or use them in  
5       that way.

6                 And some of them had problems with them  
7       too. Some of them were just -- I mean, Will ran  
8       the numbers. Realized I don't know that all of  
9       them were maps that we -- the initial screening  
10      process -- there were some initial -- I'm recalling  
11      better now -- there were some initial, you know,  
12      like, for example, is this with English? There's  
13      usually just something more you do in Maptitude.  
14      You can't just look at it, so...

15               Q. Was that done for each of the seven  
16      maps, the initial screening?

17               A. I think he did do that. That  
18      deviation, I think he did that. I'm almost sure  
19      because I remember when we reached out to some  
20      people -- I can't remember which ones they were --  
21      some people were just barely out of mediation. We  
22      could tell it was in error. You know, we didn't  
23      want to reject the map. I don't remember which one  
24      it was. There was at least one or two where they  
25      were, you know, within fix ability as it were that

Page 283

1       we did not want them to not have maps that they  
2       couldn't propose.

3           Q.     But who made that -- I'm sorry. I  
4       missed the name of the person who made that  
5       deviation analysis.

6           A.     I believe that's just something Will  
7       popped up in Maptitude.

8           Q.     But he was not looking at assessing the  
9       maps for anything outside of deviation that you're  
10      aware of?

11          A.     Bare bones, deviation, and could this  
12      map be even proposed?

13          Q.     And those were provided to members of  
14      the subcommittee and made available to the public.  
15      So then your position is that if one of the members  
16      identified that one as something they wanted to  
17      move forward with, that's how those maps will  
18      become alive, but otherwise, your team was not  
19      engaging with those public maps?

20          A.     Not to any great extent, no. We did  
21      print out similar bare bones analysis -- I wouldn't  
22      say bare bones -- similar analysis to document for  
23      Senator Campsen. I think we did print out  
24      documents -- and you should have them -- similar to  
25      that for each of the submitted maps.

1                   So I think that analysis was  
2 probably -- and actually now that I think about it,  
3 that analysis may have been done by Grayson, the  
4 other GIS operator. Maybe he generated the reports  
5 because -- I think that is the case now. One of  
6 the ways we wanted to make sure we had one person  
7 drawing a map in the map room -- we didn't want to  
8 have two GIS operators -- so we split the duties of  
9 looking at the other maps for the bare bones,  
10 statistics, and deviation. I think we delegated  
11 that, like I said, to Grayson.

12                  Q. And that bare bones assisting, was that  
13 part of the information that was then given to  
14 members alongside the maps?

15                  A. Yeah, I'm sure. I'm pretty sure I  
16 remember us having just the similar numbers like  
17 that from the other maps in their reports when they  
18 were presenting their maps.

19                  Q. Of the maps that were sent up to  
20 Mr. Gore developed by Senate members, do you  
21 recall -- and I don't want to know the nature of  
22 your conversations -- but generally was it up and  
23 thumbs up or thumbs down or was it back and forth  
24 on any particular maps?

25                  MR. TYSON: Okay. I'm going to object.

Page 292

1 of that nature. I don't remember if this map is  
2 that.

3 Q. Okay. I would like you to keep this to  
4 the side or keep it available to you because we're  
5 going to return to it very shortly.

6 MS. ADEN: But in the interim, I wanted  
7 to have Raymond pull a tab 31, which is Bates  
8 stamped 3260 to 68.

9 (EXHIBIT 15, Email from Will Roberts to  
10 Robert Joseph Oppermann dated January 18, 2022,  
11 Bates labeled SCSENATE\_00003260-00003265, was  
12 marked for identification.)

13 BY MS. ADEN:

14 Q. This is an email from Will Roberts to  
15 Mr. Oppermann dated January 18. And it has a  
16 number of attachments, the House Plan Senate 2  
17 Amendment, Core Constituencies, A Partisan  
18 Analysis.

19 A. I got it.

20 Q. Okay. Are you familiar with these  
21 reports?

22 A. I'm not personally familiar with them,  
23 but I'm not surprised that Will was happy to, you  
24 know, press a couple buttons and easily get the  
25 information in this document.

Page 293

1           Q. Did you see reports like these for  
2 other maps that were prepared for the Senate's  
3 consideration?

4           A. I couldn't say exactly, but, yes, I  
5 think they would have been -- yeah. They certainly  
6 were available. I don't know that they were  
7 printed out for all of them in every iteration of  
8 their plans, you know. But, yes, this information  
9 certainly would have been available.

10          Q. Okay. During the January 13th hearing,  
11 Mr. Oppermann -- do you recall that he provided an  
12 analysis of the map that he had drawn with Senator  
13 Harpootlian for an overview, a summary?

14          A. I do remember him providing an  
15 overview, a summary, yeah. I have not gone back  
16 and read the transcript. I saw it, uh-huh.

17          Q. Do you recall having any basis to  
18 disagree with his representations about what the  
19 map did or did not do?

20          A. I didn't do an analysis of his maps. I  
21 took him at his word from what he said, but I have  
22 no reason to believe one way or the other of my own  
23 information. He seemed like a nice fellow.

24          Q. Would it be fair to say the overall  
25 public supported Amendment 2 at the hearing where

Page 294

1 it was considered?

2 A. The public in general, I don't know. I  
3 don't recall exactly -- I didn't count heads in the  
4 audience so I don't recall specifically how many  
5 supported it.

6 MS. ADEN: Okay. If we can look at  
7 what is tab 30, Raymond.

8 BY MS. ADEN:

9 Q. And this is Bates stamped 3269 to 3277.  
10 This is an email cover from Mr. Oppermann to you,  
11 Mr. Fiffick, dated January 17th, 2022. It has an  
12 attachment entitled Written testimony offered to  
13 the Senate Redistricting Subcommittee.

14 MR. TYSON: Hey, Leah, can you cite the  
15 Bates numbers again so we can try to find it?

16 MS. ADEN: Yes. 3269 to 3277.

17 Raymond, it's tab 30 for us.

18 MR. AUDAIN: That should be up.

19 MS. ADEN: Okay.

20 THE WITNESS: It's 3269 at the bottom?

21 BY MS. ADEN:

22 Q. Yes.

23 A. Okay. Yep.

24 (EXHIBIT 16, Email to Andy Fiffick from  
25 Robert Joseph Oppermann dated January 17, 2022,

Page 295

1 Bates labeled SCSENATE\_00003269-00003277, was  
2 marked for identification.)

3 BY MS. ADEN:

4 Q. Okay. Have you seen this document  
5 before?

6 A. I'm sure I've seen it if it was sent to  
7 me.

8 Q. Does it reflect that Mr. Oppermann is  
9 comparing the Campsen Plan to the Harpootlian Plan?

10 A. It does look to be a comparison, yes,  
11 ma'am.

12 Q. And is it fair to say that this  
13 document walks through each of the criteria  
14 identified in the Senate's guidelines that we  
15 talked about at length earlier in the day in  
16 comparison of his view of how the Campsen Plan as  
17 compared to the Oppermann Plan complies with those  
18 criteria?

19 A. It appears to be from looking at it,  
20 yeah.

21 Q. Did you assess those comparisons?

22 A. I'm sure I read most of this, but I did  
23 not do an analysis to further compare it. It was  
24 presented and available to the members and I didn't  
25 feel the need to go back and -- no, I didn't do any